

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING  
COMMITTEE held in the COUNCIL CHAMBERS, KILMORY, LOCHGILPHEAD  
on WEDNESDAY, 19 JUNE 2019**

**Present:** Councillor David Kinniburgh (Chair)

Councillor Rory Colville	Councillor Graham Archibald Hardie
Councillor Robin Currie	Councillor Donald MacMillan
Councillor Mary-Jean Devon	Councillor Alastair Redman
Councillor Lorna Douglas	Councillor Sandy Taylor
Councillor Audrey Forrest	Councillor Richard Trail
Councillor George Freeman	

**Attending:** Charles Reppke, Head of Governance and Law  
Angus Gilmour, Head of Planning, Housing and Regulatory Services  
Peter Bain, Development Manager  
Sandra Davies, Major Applications Team Leader  
Arlene Knox, Senior Planning Officer

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors Gordon Blair, Roderick McCuish and Jean Moffat.

**2. DECLARATIONS OF INTEREST**

Councillor Richard Trail declared a financial interest in the Proposal of Application Notice at item 5 of this Minute as this was an application submitted by his family. He left the room and took no part in the discussion of this report.

**3. MINUTES**

- a) The Minute of the Planning, Protective Services and Licensing Committee held on 15 May 2019 was approved as a correct record.
- b) The Minute of the Planning, Protective Services and Licensing Committee held on 22 May 2019 was approved as a correct record.
- c) The Minutes of the Planning, Protective Services and Licensing Committee held on 27 May 2019 was approved as a correct record.
- d) The Minute of the Planning, Protective Services and Licensing Committee held on 3 June 2019 at 2.00 pm was approved as a correct record.
- e) The Minute of the Planning, Protective Services and Licensing Committee held on 3 June at 2.20 pm 2019 was approved as a correct record.
- f) The Minute of the Planning, Protective Services and Licensing Committee held on 3 June 2019 at 2.40 pm was approved as a correct record.

**4. SSE GENERATION LIMITED (VIA SCOTTISH GOVERNMENT CONSENTS UNIT): ELECTRICITY ACT SECTION 36 CONSULTATION RELEVANT TANGY 4 WIND FARM: TANGY WIND FARM, KILCHENZIE, ARGYLL AND BUTE (REF: 18/02014/S36)**

The Senior Planning Officer spoke to the terms of the report which detailed a recommended response to the Scottish Government's Energy Consents and Deployment Unit Section 36 consultation regarding the proposed Tangy 4 wind farm at Kilkenzie. In Scotland, any application to construct or operate an onshore power generating station, in this case, a wind farm, with an installed capacity of over 50 megawatts requires the consent of Scottish Ministers under Section 36 of the Electricity Act 1989. Any ministerial authorisation given would include a 'deemed planning permission' and in these circumstances there is then no requirement for a planning application to be made to the Council as Planning Authority. The Council's role in this process is one of a consultee along with other consultation bodies. This report reviews the policy considerations which are applicable to this proposal and the planning merits of the development, the views of bodies consulted by the Scottish Government along with other consultations. It is recommended, in this case, that the Council does not object to this proposal subject to consideration of the recommended conditions and mitigation detailed at Section B of the report of handling. At the request of the Committee the Head of Planning, Housing and Regulatory Services was authorised to amend and strengthen the wording of the first recommended condition to expand on the reasons why the lifespan of the wind farm should be time limited.

### **Decision**

The Committee agreed not to object to this Section 36 Application, and that the Energy Consents Unit consider the following conditions and mitigation:

### Conditions

- In recognition of the expected lifespan of the wind farm, it is considered that the permission should be time-limited to a period reflective of the lifespan of the turbine technology intended to be used from the date when electricity is first exported to the electricity grid network (Scotways). In addition, the landscape is a changing landscape which may be different in 25 years. This is why Argyll and Bute Council consider that it is important that this is a time limited consent and not given in perpetuity;
- Condition to ensure that the Replanting Figure is corrected to reflect the known locations of the badger setts within the site (Badger Protection Plan – as recommended by SNH);
- Conditions to ensure that all ecological mitigation measures detailed in the EIA Report are incorporated into any approval (as recommended by SNH);
- Condition to secure a more detailed Habitat Management Plan (HMP) (as recommended by SNH);
- Conditions relating to Tangy Loch SSSI to deliver appropriate mitigation to protect Tangy Loch SSSI from water quality impacts (as recommended by SNH);
- Condition to secure a Construction Environment Management Plan (CEMP);
- Condition to prevent disturbance to Greenland white-fronted goose (GWFG) (as recommended by RSPB);
- Condition to ensure compensatory planting plan is included with any consent (as recommended by Forestry Commission Scotland);
- Condition to secure an independent tourism impact assessment (in accordance with the advice of Visit Scotland);

- Conditions as recommended by the Council's Environment Protection Officer to ensure: control of noise emissions; a report to demonstrate compliance with noise limits; assessment by independent consultant upon request of EHO; logging of wind speed, wind direction and power generation data; working methods and operating times for decommissioning of existing wind farm; point of contact for local residents; method statement detailing all mitigation measures to secure the quality, quantity and continuity of private water supplies; and details of external lighting.
- Condition to control potential Shadow Flicker impact to ensure that the relevant turbines are programmed to shut down at appropriate times to avoid any adverse impact on neighbouring properties.
- Conditions as required by the Ministry of Defence (MOD) and Highlands and Islands Airports Limited (HIAL) to secure appropriate aviation lighting;
- Conditions as required by Transport Scotland and the Council's Area Roads Engineer;
- Condition to secure the decommissioning of Tangy 1 & 2 to an acceptable standard, including ancillary infrastructure and site restoration;
- Condition to secure the decommissioning of Tangy 4 to an acceptable standard, including ancillary infrastructure and site restoration.

### Mitigation

- Consideration should be given by the ECU to the mitigation measures suggested by SNH and the Council's Landscape Consultant to lessen the impact of the proposal on the raised beach (as evidenced by VP 1);
- Consideration should be given by the ECU to the relocation of the turbine nearest to Tangy Loch (Turbine 5) to reduce the adverse impact upon Tangy Loch, Fortified Dwelling. For the same reason, consideration should also be given to the relocation of borrow pit search areas depicted adjacent to Turbines 4 and 5 as recommended by Historic Environment Scotland.

### Other

- Forestry Commission Scotland (FCS) object on the basis that a lack of information has been provided in regard to compliance with the UK Forestry Standard (UKFS) in regard to species diversity, peat depth and restocking, forest landscape design and nutrient enrichment. It is noted at time of writing that SSE has provided further information, however that FCS have not withdrawn their objection. It is recommended that this matter is addressed, prior to the Energy Consents Unit reaching a conclusion on the proposal, and any further conditions recommended by FCS are applied.
- SNH also provide advice in relation to the Kintyre Goose Roosts SPA which, in their view, would not be adversely affected by the proposal. Due to the status of the site the Energy Consents Unit will be required to undertake an Appropriate Assessment under the Habitat Regulations.
- In light of the requirements of both National and Local Policy on wind farm development proposals it is considered by the Council that Energy Storage for this site should be explored further by the Energy Consents Unit prior to the application being determined.
- That the Council would expect to be consulted on any final list of conditions prior to permission being granted, should Scottish Ministers be minded to do so.
- The Council would also expect to be consulted on any further mitigation, changes to the layout or turbine height.

Having moved an Amendment which failed to find a seconder, Councillor Alastair Redman asked for his dissent from the foregoing decision to be recorded.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 7 June 2019, submitted)

Having previously declared an interest in the following item, Councillor Richard Trail left the meeting at this point.

Councillor Donald MacMillan left the meeting at this point.

**5. THE TRAIL FAMILY: PROPOSAL OF APPLICATION NOTICE FOR PROPOSED RESIDENTIAL DEVELOPMENT INCLUDING ROADS, INFRASTRUCTURE, OPEN SPACE AMENITY AND AFFORDABLE HOUSING: LAND EAST OF HERMITAGE ACADEMY, SAWMILL FIELD, HELENSBURGH (REF: 19/01070/PAN)**

The Major Applications Team Leader spoke to the terms of the report. A Proposal of Application Notice (PAN) seeks to notify the Planning Authority of a proposed residential development covering an area of approximately 5.8 hectares at land east of Hermitage Academy. Planning permission in principle has previously been granted for residential development at this site under 16/00643/PPP. This permission expires on 17 August 2019. The submission of this PAN would allow the submission of an application to renew this previous planning permission before its expiry. However, following the PAN process it would also be open to the Applicants to submit a fresh application should they wish to do so. The report summarises the policy considerations against which any future planning application will be considered as well as potential material considerations and key issues based upon the information received to date. It is recommended that Members consider the content of the report and submissions and provide such feedback as they consider appropriate in respect of this PAN in order to allow these matters to be considered by the Applicants in finalising any future planning application submission.

**Decision**

The Committee agreed that the following issues should be taken into consideration by the Applicant in finalising any future planning application submission:

- a) Access to the site and consultation with the Roads Authority on what will be required;
- b) Connectivity with cycle tracks into Helensburgh town centre;
- c) Drainage and flooding issues; and
- d) A reduction to the national speed limit on the main road (A814) passing the site.

(Reference: Report by Head of Planning, Housing and Regulatory Services dated 6 June 2019, submitted)

Councillor Trail returned to the meeting.

**6. COSTING THE PLANNING SERVICE IN SCOTLAND 2018**

A report providing a summary of the key findings from the 2018 Costing the Planning Service Project was considered. This Project is a follow up to earlier studies ran by

the Heads of Planning Scotland which Argyll and Bute Council participated in 2014. The Project aims were to provide detailed information on the cost of delivering planning services, particularly development management.

### **Decision**

The Committee agreed, in any upcoming consultation, to adopt a position to lobby the Scottish Government for an uplift of planning fees to a level which would address the current shortfall in the cost of handling planning applications.

(Reference: Report by Executive Director – Development and Infrastructure Services dated 30 March 2019, submitted)

## **7. PLANNING AND REGULATORY SERVICES PERFORMANCE REPORT Q4 2018-2019**

A paper presenting the Committee with the Planning and Regulatory Services performance report with associated scorecard for performance in FQ4 2018-19 (January – March 2019) was considered.

### **Decision**

The Committee reviewed the scorecard as presented.

(Reference: Report by Executive Director – Development and Infrastructure Services, submitted)

## **8. UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION**

A report summarising the outcome of a recent decision by the Scottish Ministers under Section 36 of the Electricity Act 1989 relative to planning application reference 15/03175/S36 – proposed 16 wind turbines etc at land at Upper Sonachan Forest, South East of Portsonachan, Loch Awe, was before the Committee for information.

### **Decision**

The Committee noted the contents of the report.

(Reference: Report by Head of Planning, Housing and Regulatory Services, submitted)

## **VALEDICTORY**

The Chair advised that 69 years of experience would be lost from the Committee today with two of the main Officers retiring next week - Angus Gilmour and Charles Reppke. He commented that the Committee would still have the pleasure of Charles' company in Oban next week at a Planning Hearing but advised that, on behalf of the Committee Members, both past and present, he would like to take the opportunity to wish both Officers all the very best for the future and hoped that they would both have a very happy retirement. He thanked them for all their help and advice given to the Committee over the years which had been greatly appreciated.

Angus thanked the Committee for their support over the years and wished them well for the future. He also thanked Charles and his team for their support over the years to the Planning team and wished them well too.